

REMARKS

Claims 1-21 are pending in the application. Claims 22-27 are new. Support for Claims 22-27 may be found throughout the specification and drawings. No new matter is added.

Claim Rejection 35 U.S.C. § 102

35 U.S.C. § 102(b)

Claims 1-3, 5, 8-11, 13-16, 19 and 21 stand rejected under 35 U.S.C. §102(b) as being unpatentable over Shuler (United States Patent Number 3,975,995), hereinafter *Shuler*. Applicant respectfully disagrees.

Generally with regard to the anticipation rejection under 102 U.S.C. §102(b) of Claims 1-3, 5, 8-11, 13-16, 19 and 21. The Office asserts that *Shuler* anticipates the present invention. Applicant disagrees. In order to establish a *prima facie* case of anticipation “An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of invention.” *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (C.C.P.A. 1981) citing *Hansgirk v. Kemmer*, 102 F.2d 212, 214, 40 USPQ 665,667 (C.C.P.A. 1939)). *Shuler* teaches “The present invention relates to ventilation systems having air filtering and diffusing devices, and more particularly to air filtering and diffusing ceilings and walls for environmentally controlled rooms.” *Shuler*, Column 1, lines 5-8. (emphasis added). The presently claimed invention is directed generally to a process chamber airflow system, in Claim 1, and a method of providing substantially laminar airflow in a process chamber, in Claim 21.

Claim 1, was rejected under 35 U.S.C §102(b) as being unpatentable over *Schuler*. Applicant respectfully disagrees.

“[A]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1982) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1984)) (emphasis added). The Office asserts that *Shuler* teaches “30 for the plenum”. However, as may be seen in FIG. 1 of *Shuler* the proffered air diffuser 48 is not connected to the plenum 30.

Further with respect the Office’s rejection to Claim 1 under 35 U.S.C. §102(b), the Office cited *Shuler* “48 for the air diffuser”. Applicant respectfully disagrees. Specifically, *Shuler* fails to teach the limitation of an air diffuser...wherein the air diffuser contains a plurality of holes, such that the initial flow of air through the plenum is reduced as required by Claim 1. Removal of the pending rejection to Claim 1 under 35 U.S.C. §102(b) is respectfully requested.

Claims 2-12 are believed to be allowable based on their dependency on Claim 1.

With respect to Claim 13, the Office rejected Claim 13 under 35 U.S.C. §102(b) based on the *Shuler* reference. Applicant respectfully disagrees. As cited prior, “[A]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1982) (emphasis added). Claim 13 includes the limitation of a plate with a plurality of holes sufficient to cause the first side of the plate to experience a first pressure and the second side to experience a pressure lower than the first pressure when disposed in an airflow.. *Shuler* does not teach the limitation as claimed; therefore a *prima facie* case of anticipation is not established, thus Claim 13, is believed to be allowable. Removal of the pending rejection under 35 U.S.C. §102(b) to Claim 13 is respectfully requested.

Claims 14-16, and 19 are believed to be allowable based on their dependency on Claim 13.

Claim Rejection 35 U.S.C. § 103

35 U.S.C. § 103(a)

Claims 12 and 20 stand rejected under 35 U.S.C. §103(a). The rejection is respectfully traversed.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). (emphasis added). See also *In re Wilson*, 165 U.S.P.Q. 494 (C.C.P.A. 1970). In the Office's rejection of Claims 12 and 20 it noted "[S]huler discloses all of the limitations to the claims except for the range of airflow holes being between 0.125" and 0.5"." Applicant respectfully forwards the arguments made with respect to the Office's 35 U.S.C. §102(a) rejection and in particular the arguments for Claims 1 and 13 from which Claims 12 and 20 depend.

Further, with respect to Claims 12 and 20 as the Examiner is aware, Applicant is required to seasonably challenge statements by the Office that are not supported on the record, and failure to do so will be construed as an admission by Applicant that the statement is true. *M.P.E.P.* §2144.03. Therefore, in accordance with Applicant's duty, the Examiner is hereby requested to cite a reference supporting the position that the subject matter of Claims 12 and 20 as a whole would have been obvious at the time the invention was made in accordance with the claimed invention. Further, the Applicant respectfully requests the Examiner cite the motivation or suggestion in the prior art to utilize *Shuler* with the "obvious design choice" offered by the Office. As the Examiner is aware, "it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one

of ordinary skill in the art to suggest making the claimed substitution or other modification.” *In re Lahu*, 747 F.2d 703, 223 USPQ 1257, 1258 (Fed. Cir. 1984). If the Examiner is unable to provide such a reference, and is relying on facts based on personal knowledge, Applicant hereby requests that such facts be set forth in an affidavit from the Examiner under 37 C.F.R. 1.104(d)(2). Absent substantiation, it is respectfully submitted that there is no motivation, teaching or suggestion to combine *Shuler* with the proffered “obvious design choice” thus a *prima facie* case of obviousness has not been established. Applicants respectfully request the rejection under 35 U.S.C. §103(a) to Claims 12 and 20 be withdrawn.

Regarding Claims 4, 6, 8, 17 and 18, Applicant respectfully requests that the Office clarify under which section of the Patent Laws the Office is rejecting the above mentioned claims, such that Applicant may fully respond. If the rejection is based in 35 U.S.C. §112 paragraph 2, it is believed that the above mentioned claims fairly convey the bounds for which Applicant is seeking protection, in accordance with the *M.P.E.P.* §2173.05(g). In light of the foregoing, Applicant respectfully requests removal of the rejection and allowance of Claims 4, 6, 8, 17 and 18.


CONCLUSIONS

In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

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Respectfully submitted,
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